THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION No.25191 of 2005

Dt:04.01.2006

Between:

Toddy Cooperative Society

.. Petitioner

and

The Deputy Commissioner of Prohibition and Excise and others

.. Respondents

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise and perused the material on record.

The writ petitioner is a Toddy Cooperative Society at Maganoor village and Mandal, Mahaboobnagar District. On 01.08.2005, the second respondent, Superintendent of Prohibition and Excise, Mahaboobnagar, inspected the Toddy depot situated at Sy.No.295 of Maganoor village, in the presence of the persons including one Sri Bajarappa s/o. Thimmappa, who is the Secretary of the petitioner-society, during which, it was found that the stocks of toddy therein were adulterated with Chloral Hydrate. Consequently, a case was registered in Crime No.157 of 2005-06 under Sections 34(a) and 37(a) of A.P. Excise Act and the toddy samples drawn were sent to the Government Chemical Examiner for Prohibition & Excise, Regional (Prohibition & Excise) Lab, Hyderabad for analysis. Thereafter the second respondent by order, dated 12.08.2005, suspended the license of the petitioner-society with immediate effect, pending enquiry in the public interest. Aggrieved by the said order, the petitioner preferred an appeal before the first respondent, Deputy Commissioner of Prohibition and Excise. Having entertained the said appeal, the first respondent by order, dated 18.11.2005, rejected the application for stay, keeping in view the allegation that the adulterated toddy is being supplied to the shops from the illegal depot at Maganoor. The said order is under challenge in this writ petition.

The learned counsel for the petitioner vehemently contended that the order of suspension is arbitrary and illegal and was passed mechanically without application of mind to the fact that the license of the depot was withdrawn long back on 27.06.2005. He submits that at any rate the petitioner-society is no way connected with the depot alleged to have been illegally being run and that no samples were drawn from shop Nos.1 and 2 of the petitioner-society at Maganoor village.

The learned counsel for the petitioner has relied upon a decision of this Court in ***SATYANNA GOUD v EXCISE SUPERINTENDENT*** wherein, it was held that the suspension of T.F.T. licenses of the petitioners therein, based on the statement of the person found in the premises, was arbitrary and unjustified.

Admittedly an enquiry is pending and the petitioner society has already submitted its explanation raising the above pleas and denying the allegations in the show cause notice. Hence it is for the competent authority to make the necessary enquiry and to record findings on all the charges levelled against the petitioner. Therefore, I am not inclined to express any opinion on merits. The ratio laid down in ***SATYANNA GOUD's***) case is also of no assistance at this stage since this Court has not gone into the merits of the case.

That apart, as noted above, the petitioner has already availed the alternative remedy of appeal against the order of suspension, dated 12.08.2005, and what is impugned in this writ petition is only the order passed by the appellate authority declining to grant stay as sought by the petitioner pending the appeal.

Having regard to the facts and circumstances of the case and particularly keeping in view the gravity of the allegation that the toddy found in the depot which was being supplied to the shops of the petitioner-society was adulterated with Chloral Hydrate, I am unable to find fault with the first respondent in declining to stay the order of suspension of license pending the appeal. Hence the relief as prayed for cannot be granted. Instead, I deem it appropriate to dispose of the writ petition with a direction to the first respondent to dispose of the appeal pending on his file and pass appropriate orders in accordance with law on or before 31.01.2006.

The writ petition is accordingly disposed of. There shall be no order as to costs.

_____

04.01.2006

Note: Issue C.C. in three days.

(B/o)

kdl